

REMARKS

The specification and claim 67 have been amended to include the ATCC accession number assigned to the seed deposit of the gummy stem blight resistant *Cucumis melo* breeding line of the present invention. A copy of applicant's receipt for the deposit is attached hereto as Exhibit 1. No new matter has been added. Pursuant to 37 CFR § 1.121, attached as Appendix A is a Version With Markings to Show Changes Made.

Respectfully submitted,

Date: April 1, 2002



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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: U.S. Patent & Trademark Office, Commissioner for Patents, Washington, D.C. 20231, on the date below.	
Date <u>4/1/02</u>	<u>Jo Ann Whalen</u> Jo Ann Whalen

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APPENDIX A



Version With Markings to Show Changes Made

Page 1 of 2

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In reference to the amendments made herein to the specification and to claim 67, additions appear as double-underlined text, while deletions appear as bracketed text, as indicated below:

In the Specification:

Paragraph [0018] beginning at page 5, line 19, has been amended as follows:

The present invention also relates to seed of a gummy stem blight resistant *C. melo* breeding line designated NY 01-190-3R, -7L, -9L (composite), a sample of the seed having been deposited under ATCC accession number [] PTA-3860.

Paragraph [0028] beginning at page 7, line 9, has been amended as follows:

The present invention also relates to seed of a gummy stem blight resistant *C. melo* breeding line designated NY 01-190-3R, -7L, -9L (composite), a sample of the seed having been deposited under ATCC accession number [] PTA-3860.

Paragraph [0078] beginning at page 19, line 1, has been amended as follows:

A deposit of a representative sample of seeds of a GSB resistant breeding line produced according to the methods of the present invention, and designated as NY 01-190-3R, -7L, -9L (composite), were deposited with the American Type Culture Collection (ATCC), 10801 University Blvd., Manassas, Va. 20110-2209. The date of submission of the deposit to ATCC was November 13, 2001. The accession number for those deposited seeds of NY 01-190-3R, -7L, 9L (composite) is [] PTA-3860. The deposit will be maintained in the depository for a period of 30 years, or 5 years after the last request, or for the effective life of the patent, whichever is longer, and will be replaced if necessary during that period.

APPENDIX A

Version With Markings to Show Changes Made

Page 2 of 2

In the Claims:

Claim 67 has been amended as follows:

67. (Amended) Seed of a gummy stem blight resistant *Cucumis melo* breeding line designated NY 01-190-3R, -7L, -9L (composite), a sample of said seed having been deposited under ATCC accession number [] PTA-3860.

ATCC

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-365-2745

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURES

INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.1
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2



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(Name and Address of Depositor or Attorney)

Cornell University
Attn: Molly Jahn
312 Bradfield Hall
Ithaca, NY 14853

Deposited on Behalf of: Cornell University

Identification Reference by Depositor:

Cucumis melo(melon) breeding line: NY01-190-3R, -7L, -9L (composite)

Patent Deposit Designation
PTA-3860

The seeds were accompanied by: a scientific description a proposed taxonomic description indicated above.
The seeds were received November 14, 2001 by this International Depository Authority and have been accepted.

AT YOUR REQUEST: ☒ We will inform you of requests for the seeds for 30 years.

The seeds will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the seeds and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said seeds.

If the seeds should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with viable seeds of the same.

The seeds will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the seeds cited above was tested November 19, 2001. On that date, the seeds were viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:


Tanya Nunnally, Patent Specialist, Patent Depository

Date: November 21, 2001

cc: Andrew Gonsalves